

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----X
MARLON SMITH,

Plaintiff,

-against-

INDEPENDENT BANK,

Defendant.
-----X

JUDGMENT
05-CV- 3420 (NGG)

FILED
IN CLERK'S OFFICE
U.S. DISTRICT COURT, E.D.N.Y.

★ AUG 10 2005 ★

BROOKLYN OFFICE

A Memorandum and Order of Honorable Nicholas G. Garaufis, United States District Judge, having been filed on August 10, 2005, dismissing the action for lack of subject matter jurisdiction; directing that the Court expresses no opinion with respect to the merits of plaintiff's claim, which plaintiff is free to pursue in State Court; certifying pursuant to 28 U.S.C. § 1915(a)(3) that any appeal from the Court's Memorandum and Order would not be taken in good faith; and denying *in forma pauperis* status for purposes of an appeal; it is

ORDERED and ADJUDGED that plaintiff take nothing of the defendant; that the action is dismissed for lack of subject matter jurisdiction; that the Court expresses no opinion with respect to the merits of plaintiff's claim, which plaintiff is free to pursue in State Court; that pursuant to 28 U.S.C. § 1915(a)(3) any appeal from the Court's Memorandum and Order would not be taken in good faith; and that *in forma pauperis* status is denied for purposes of an appeal.

Dated: Brooklyn, New York
August 10, 2005

ROBERT C. HEINEMANN
Clerk of Court